



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 20 अप्रैल, 1991/30 चैत्र, 1913

हिमाचल प्रदेश सरकार

विधि विभाग

अधिसूचना

शिमला-171002, 20 अप्रैल, 1991

संख्या एल० एल० आर०-डी० (6) 14/91.--हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 200 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 18 अप्रैल, 1991 को अनुमोदित हिमाचल प्रदेश विलास वस्तुओं पर कर

(होटलों और किराया गृहों में) संशोधन विधेयक, 1991 (1991 का 14) का वर्ष 1991 के हिमाचल प्रदेश अधिनियम संख्यांक 9 के रूप में संविधान के अनुच्छेद 348 (3) के अधीन उसका प्राधिकृत पाठ सहित, राजपत्र, हिमाचल प्रदेश में प्रकाशित करते हैं।

आदेश द्वारा,
अमरेन्द्र लाल बैद्य,
सचिव (विधि)।

1991 का अधिनियम संख्यांक 9.

हिमाचल प्रदेश विलास वस्तुओं पर कर (होटलों और किराया गृहों में) (संशोधन) अधिनियम, 1991

(राज्यपाल महोदय द्वारा तारीख 18 अप्रैल, 1991 को यथा अनुमोदित)

हिमाचल प्रदेश टैक्स आन लक्शरीज (इन होटलज् ऐण्ड लौजिंग हाऊसिज) ऐक्ट, 1979 (1979 का 15) का और संशोधन करने के लिए अधिनियम ।

भारत गणराज्य के ब्यालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो:—

1. इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश विलास वस्तुओं पर कर (होटलों और किराया गृहों में) (संशोधन) अधिनियम, 1991 है ।

2. हिमाचल प्रदेश टैक्स आन लक्शरीज (इन होटलज् ऐण्ड लौजिंग हाऊसिज) ऐक्ट, 1979 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 2 का संशोधन ।

1969 का
15

(i) खण्ड (a) के स्थान पर निम्नलिखित खण्ड (a) रखा जाएगा, अर्थात्:—

“(a) “assessing authority” means the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer, appointed under sub-section (1) of section 3 of this Act and conferred the powers under sub-section (2) of section 3 thereof for carrying out the purposes of this Act;”;

(ii) खण्ड (c) के पश्चात् निम्नलिखित खण्ड (cc) अन्तःस्थापित किया जाएगा, अर्थात्:—

“(cc) “Deputy Excise and Taxation Commissioner”, means the Deputy Excise and Taxation Commissioner, appointed under sub-section (1) of section 3 of this Act, to assist the Commissioner and shall also include the Joint Excise and Taxation Commissioner;”;

(iii) खण्ड (e) में शब्दों “twenty five” के स्थान पर “fifty” शब्द रखा जाएगा ;

(iv) खण्ड (f) के अन्त में आए शब्द “and” का लोप किया जाएगा; और

(v) खण्ड (g) में चिन्ह “.” के स्थान पर “; and” चिन्ह और शब्द रखा जाएगा और तत्पश्चात् खण्ड (h) जोड़ा जाएगा, अर्थात्:—

“(h) “registered” means registered under this Act.”

धारा 4 का 3. मूल अधिनियम की धारा 4 की उप-धारा (2) के स्थान पर निम्नलिखित उप-संशोधन। धारा (2) रखा जाएगा, अर्थात्:—

“(2) The luxury tax shall be payable by the persons residing at a hotel at the following rates, namely:—

- (a) Where the charges for residence are fifty rupees but do not exceed one hundred and fifty rupees per day per person ; and 8 percentum of such charges, and
- (b) Where the charges for residence exceed one hundred and fifty rupees per day per person ; 10 percentum of such charges :

Provided that, where any such charges are paid by any person other than the citizen of India, in any foreign exchange, then such person or where such charges are paid by any person or class of persons as the State Government may by order direct, such as foreigners staying as guests in India of any Government, or of any corporation or company owned or controlled by the Government, or such other person as in the opinion of the State Government, if it is expedient in the public interest to exempt, then such person or persons shall be exempt from the payment of the luxury tax :

Provided further that, where charges are levied otherwise than on daily basis or per person, then, charges for determining the tax liability under this section, shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel.”.

धारा 5-A का अन्तः-स्थापन।

4. मूल अधिनियम की धारा 5 के पश्चात् निम्नलिखित धारा 5-A अन्तःस्थापित की जाएगी, अर्थात्:—

- “5-A. *Registration of proprietor.*—(1) No proprietor shall, while being liable to pay tax under this Act, carry on business as a proprietor unless he has been registered and possesses a registration certificate.
- (2) Every proprietor required by sub-section (1) to be registered shall make an application in this behalf in the prescribed manner to the assessing authority of the district concerned.
- (3) If the assessing authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fee as may be prescribed, register the applicant and grant him certificate of registration in the prescribed form.
- (4) The assessing authority may, from time to time, by order, amend or cancel any certificate of registration on any sufficient cause including the cessation of liability to pay luxury tax under this Act :

Provided that no order affecting any person adversely shall be made under this sub-section without affording him a reasonable opportunity of being heard.

- (5) When any proprietor has paid the amount of penalty imposed under section 14 in respect of any contravention of sub-section (1) of this section, the assessing authority shall register such proprietor

and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (3) of this section on the proprietor's application.

- (6) When any business in respect of which a certificate of registration has been granted under this section has been discontinued or transferred in the name of other proprietor or person, the assessing authority shall cancel the registration and the cancellation shall come into force after such discontinuance or transfer."

5. मूल अधिनियम की धारा 6 के स्थान पर निम्नलिखित द्वारा 6 रखी जाएगी, अर्थात्:— धारा 6 का प्रतिस्थापन।

"6. *Payment of tax and submission of returns.*—(1) Every proprietor, liable to pay luxury tax under this Act shall deposit the full amount of luxury tax due and payable by him, in respect of each month within eight days after the close of the month to which the luxury tax relates into a Government treasury or the State Bank of India, and shall furnish to the assessing authority of the district concerned a proof of having paid the tax due in the prescribed manner.

(2) Every proprietor shall furnish a return in the prescribed form to the assessing authority of the district concerned quarterly within 15 days after the close of each quarter along with the receipts of payment of luxury tax for each month of the quarter to which the return relates.

(3) Every such return shall show the number of rooms or other accommodation in the hotel which is intended to be occupied, the number of persons who occupied such rooms or accommodation, the periods of their stay, the amount of charges recovered from them, together with such other information as may be prescribed.

(4) Every return shall be verified in the prescribed manner.

(5) If a proprietor fails without sufficient cause to comply with the requirements of provisions of sub-sections (1), (2) and (3) the assessing authority of the district concerned may, after giving such proprietor a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times of the amount of luxury tax due and payable by him under this Act.

(6) If a proprietor has maintained false or incorrect accounts with a view to suppressing any transaction pertaining to his business, or has concealed any particulars of his business or has furnished to, or produced before, any assessing authority under this Act or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any other person appointed to assist him under sub-section (1) of section 3 of this Act may, after affording such proprietor a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the luxury tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twenty-five percentum but which shall not exceed one and a half times of the amount of luxury tax to which he is assessed or is liable to be assessed."

धारा 7 का 6. मूल अधिनियम की धारा 7 के स्थान पर निम्नलिखित धारा 7 रखी जाएगी, प्रतिस्थान। अर्थात्:—

- “7. *Assessment of luxury tax.*—(1) The amount of luxury tax due from a proprietor shall be assessed separately for every half financial year or part thereof.
- (2) If the assessing authority is satisfied without requiring the presence of proprietor or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of luxury tax due from the proprietor on the basis of such returns.
- (3) If the assessing authority is not satisfied without requiring the presence of proprietor who furnished the returns or production of evidence, that the returns furnished in respect of any period are correct and complete, he shall serve on such proprietor a notice in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such proprietor may rely in support of such returns.
- (4) On the day specified in the notice or as soon afterwards as may be, the assessing authority shall, after hearing the proprietor and considering such evidence as the proprietor may produce, and such other evidence as the assessing authority may require on specified points, assess the amount of luxury tax due from the proprietor.
- (5) If a proprietor, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (3), the assessing authority shall, within five years after the expiry of such period, proceed to assess to the best of his judgment the amount of the luxury tax due from the proprietor.
- (6) If a proprietor does not furnish returns in respect of any period by the specified date, the assessing authority shall within five years after the expiry of such period, after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of luxury tax, if any due from the proprietor.
- (7) If upon information which has come into his possession, the assessing authority is satisfied that any proprietor has been liable to pay luxury tax under this Act in respect of any period but has failed to apply for registration, the assessing authority shall, within five years after the expiry of such period after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax, if any, due from the proprietor in respect of such period and all subsequent periods and in cases where such proprietor has wilfully failed to apply for registration, the assessing authority may direct that the proprietor shall pay by way of penalty, in addition to the amount of luxury tax so assessed, an amount which shall not be less than ten per centum, but which shall not exceed one and a half times of the amount of luxury tax to which he is assessed.
- (8) The amount of any luxury tax, penalty or interest payable under this Act shall be paid by the proprietor in the manner prescribed

by such date as may be specified in the notice issued by the assessing authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice.

- (9) If the luxury tax assessed under this Act is not paid by any proprietor within the time specified therefor in the notice of assessment, the assessing authority of the district concerned may, after giving such proprietor an opportunity of being heard, impose on him a penalty not exceeding in amount the sum due from him.
- (10) Any assessment made under this section shall be without prejudice to any penalty imposed under this Act".

7. मूल अधिनियम की धारा 7 के पश्चात् निम्नलिखित धाराएँ 7-A और 7-B अन्तःस्थापित की जाएंगी, अर्थात्:—

नई धाराओं
7-A और
7-B का
अन्तःस्थापन ।

“7-A. Re-assessment of luxury tax.—(1) If in consequence of any information which has come into his possession, the assessing authority discovers that the luxury tax payable by a proprietor has been under-assessed or has escaped assessment in any financial year or half financial year, as the case may be, the assessing authority may, at any time within five years following the close of such year for which luxury tax is proposed to be re-assessed and after giving the proprietor a reasonable opportunity in the prescribed manner of being heard, proceed to re-assess the luxury tax payable, which has been under-assessed or has escaped assessment.

(2) The assessing authority or any such authority as may be appointed by the Government, may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

7-B. Payment of interest.—(1) If any proprietor fails to pay the amount of luxury tax due from him under this Act, except to the extent mentioned in sub-section (2), he shall, in addition to the amount of luxury tax, be liable to pay simple interest on the amount of luxury tax due and payable by him, at the rate of one percentum per month from the date immediately following the last date on which the proprietor should have filed the return and paid the luxury tax under the Act for a period of one month, and thereafter at the rate of one and a half percentum per month till the default continues.

(2) If the amount of luxury tax or penalty due from a proprietor is not paid by him within the period specified in the notice issued under sub-section (8) of section 7 or, if no period is specified within thirty days from the service of such notice, the proprietor shall, in addition to the amount of luxury tax or penalty, be liable to pay simple interest on such amount, at the rate of one percentum per month from the date immediately following the date on which the period specified in the notice or the period of thirty days, as the case may be, expires, for a period of one month, and thereafter at the rate of one and a half percentum per month till the default continues :

Provided that where the recovery of any luxury tax or penalty is stayed by an order of any court, the amount of luxury tax or penalty shall, after the order of stay is vacated, be recoverable along with interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date the luxury tax or penalty first became due.

(3) The amount of interest payable under this section shall—

- (i) be calculated by considering if part of a month is more than fifteen days as one month and any amount if more than fifty rupees but less than one hundred rupees as one hundred rupees ;
- (ii) for the purposes of collection and recovery, be deemed to be luxury tax under this Act ; and
- (iii) be in addition to the penalty, if any, imposed under this Act.”.

धारा 9 का
प्रतिस्थापन ।

8. मूल अधिनियम की धारा 9 के स्थान पर निम्नलिखित धारा 9 रखी जाएगी, अर्थात्:—

“9. *Revision.*—(1) The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.

(3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”.

धाराओं 13-
A और 13-
B का
अन्तःस्थापन ।

9. मूल अधिनियम की धारा 13 के पश्चात् निम्नलिखित धाराएं 13-A और 13-B रखी जाएंगी, अर्थात् :—

“13-A. *Proprietor to maintain accounts.*—(1) Every registered proprietor and other proprietor who may be required so to do, by the Commissioner or any person appointed to assist him under sub-section (1) of section 3, by notice served on him, shall keep a true account of the luxury provided by him in his hotel, and if the Commissioner or such other person considers that such accounts are not sufficiently clear or intelligible to enable him to make a proper check of the returns or the statement furnished, he may require such proprietor by notice in writing to keep such accounts including such records of luxury provided in his hotel, as he may consider necessary.

(2) Every registered proprietor shall, issue to the customer or customers a bill or a cash memorandum serially numbered bearing the name and address of the proprietor, the date of issue and the signature of such proprietor or his servant, manager or agent and showing therein such other particulars of charges for the luxury provided in

the hotel, and preserve a carbon copy of such bill or cash memorandum for a period of not less than five years from the date of issue thereof.

- (3) Where any proprietor contravenes the provisions of sub-section (1) or sub-section (2), the Commissioner or any person appointed to assist him under sub-section (1) of section 3, may, after affording such proprietor a reasonable opportunity of being heard, impose upon him a penalty which may extend to five hundred rupees.

13-B. Power to transfer proceedings.—The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, where-ever it is possible to do so, and after recording his reasons for doing so, by order in writing transfer any proceedings under any provisions of this Act, from any officer to any other officer subordinate to him :

Provided that nothing in this section shall be deemed to require any such opportunity to be given where the offices of both the aforesaid officers are situated in the same city, locality or place.

Explanation.—In this section, the word “proceedings” in relation to any proprietor whose name is specified in any order issued thereunder, means all or any proceedings under this Act in respect of any period which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any period in relation to such proprietor.”.

10. मूल अधिनियम की धारा 14 की उप-धारा (2) के स्थान पर निम्नलिखित उप-धारा (2) रखी जाएगी, अर्थात् :—

धारा 14 का संशोधन।

“(2) The Officer not below the rank of the Excise and Taxation Officer, appointed under sub-section (2) of section 3, may, after affording to the person concerned a reasonable opportunity of being heard, impose penalty specified under sub-section (1).”.

11. मूल अधिनियम की धारा 17 की उप-धारा (2) में,—

धारा 17 का संशोधन।

(क) विद्यमान खण्ड (a) को खण्ड (aa) के रूप में पुनः संख्यांकित किया जाएगा और इस प्रकार पुनः संख्यांकित खण्ड (aa) से पूर्व निम्नलिखित नया खण्ड (a) अन्तःस्थापित किया जाएगा, अर्थात् :—

“(a) to prescribe the forms, fee and the manner in which the registration certificate is to be issued under section 5-A;”;

(ख) खण्ड (b) के पश्चात् निम्नलिखित नए खण्ड (bb) और (bbb) अन्तःस्थापित किए जाएंगे, अर्थात् :—

“(bb) the manner of payment of luxury tax, penalty or interest under sub-section (8) of section 7 ; and

(bbb) the manner in which the opportunity to be given to the proprietor under sub-section (1) and the conditions as may be prescribed under sub-section (2) of section 7-A.”.

AUTHORITATIVE ENGLISH TEXT

Act, No. 9 of 1991

THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) (AMENDMENT) ACT, 1991

(AS ASSENTED TO BY THE GOVERNOR ON 18TH APRIL, 1991)

AN

ACT

further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

Short title.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) (Amendment) Act, 1991.

Amendment
of section 2.

2. In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (hereinafter called the principal Act),—

15 of 1979

(i) for clause (a), the following shall be substituted, namely:—

(a) “assessing authority” means the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer, appointed under sub-section (1) of section 3 of this Act and conferred the powers under sub-section (2) of section 3 thereof for carrying out the purposes of this Act; ”;

(ii) after clause (c), the following clause (cc) shall be inserted, namely:—

(cc) “Deputy Excise and Taxation Commissioner” means the Deputy Excise and Taxation Commissioner, appointed under sub-section (1) of section 3 of this Act, to assist the Commissioner and shall also include the Joint Excise and Taxation Commissioner; ”;

(iii) in clause (e), for the word “twenty-five”, the word “fifty” shall be substituted;

(iv) in clause (f), the word “and” occurring at the end shall be deleted; and

(v) in clause (g), for the sign “.”, the sign and word “: and” shall be substituted and thereafter the, following clause (h) shall be added, namely:—

“(h) “registered” means registered under this Act.”.

Amendment
of section 4.

3. For sub-section (2) of section 4 of the principal Act, the following shall be substituted, namely:—

“(2) The luxury tax shall be payable by the persons residing at a hotel at the following rates, namely:—

(a) Where the charges for residence are fifty rupees but do not exceed one hundred and fifty rupees per day per person;	8 per centum of such charges; and
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- (b) Where the charges for residence exceed 10 per centum of one hundred and fifty rupees per day per such charges : person;

Provided that, where any such charges are paid by any person other than the citizen of India, in any foreign exchange, then such person or where such charges are paid by any person or class of persons as the State Government may by order direct, such as foreigners staying as guests in India of any Government, or of any corporation or company owned or controlled by the Government, or such other person as in the opinion of the State Government, if it is expedient in the public interest to exempt, then such person or persons shall be exempt from the payment of the luxury tax :

Provided further that, where charges are levied otherwise than on daily basis or per person, then, charges for determining the tax liability under this section, shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel.”.

4. After section 5 of the principal Act, the following section 5-A shall be inserted, namely:—

Insertion of section 5-A.

- “5-A. *Registration of proprietor.*—(1) No proprietor shall, while being liable to pay tax under this Act, carry on business as a proprietor unless he has been registered and possesses a registration certificate.
- (2) Every proprietor required by sub-section (1) to be registered shall make an application in this behalf in the prescribed manner to the assessing authority of the district concerned.
- (3) If the assessing authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fee, as may be prescribed, register the applicant and grant him certificate of registration in the prescribed form.
- (4) The assessing authority may, from time to time, by order, amend or cancel any certificate of registration on any sufficient cause including the cessation of liability to pay luxury tax under this Act :

Provided that no order affecting any person adversely shall be made under this sub-section without affording him a reasonable opportunity of being heard.

- (5) When any proprietor has paid the amount of penalty imposed under section 14 in respect of any contravention of sub-section (1) of this section, the assessing authority shall register such proprietor and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (3) of this section on the proprietor's application.
- (6) When any business in respect of which a certificate of registration has been granted under this section has been discontinued or transferred in the name of other proprietor or person, the assessing authority shall cancel the registration and the cancellation shall come into force after such discontinuance or transfer.”.

Substitution
of section 6.

5. For section 6 of the principal Act, the following shall be substituted, namely:—

- “6. *Payment of tax and submission of returns.*—(1) Every proprietor, liable to pay luxury tax under this Act shall deposit the full amount of luxury tax due and payable by him, in respect of each month within eight days after the close of the month to which the luxury tax relates into a Government treasury or the State Bank of India, and shall furnish to the assessing authority of the district concerned a proof of having paid the tax due in the prescribed manner.
- (2) Every proprietor shall furnish a return in the prescribed form to the assessing authority of the district concerned quarterly within 15 days after the close of each quarter along with the receipts of payment of luxury tax for each month of the quarter to which the return relates.
- (3) Every such return shall show the number of rooms or other accommodation in the hotel which is intended to be occupied, the number of persons who occupied such rooms or accommodation, the periods of their stay, the amount of charges recovered from them, together with such other information as may be prescribed.
- (4) Every return shall be verified in the prescribed manner.
- (5) If a proprietor fails without sufficient cause to comply with the requirements of provisions of sub-sections (1), (2) and (3) the assessing authority of the district concerned may, after giving such proprietor a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times of the amount of luxury tax due and payable by him under this Act.
- (6) If a proprietor has maintained false or incorrect accounts with a view to suppressing any transaction pertaining to his business or has concealed any particulars of his business or has furnished to, or produced before, any assessing authority under this Act or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any other person appointed to assist him under sub-section (1) of section 3 of this Act may, after affording such proprietor a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the luxury tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twenty-five per centum but which shall not exceed one and a half times of the amount of luxury tax to which he is assessed or is liable to be assessed.”

Substitution
of section 7.

6. For section 7 of the principal Act, the following shall be substituted, namely:—

- “7. *Assessment of luxury tax.*—(1) The amount of luxury tax due from a proprietor shall be assessed separately for every half financial year or part thereof.
- (2) If the assessing authority is satisfied without requiring the presence of proprietor or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of luxury tax due from the proprietor on the basis of such returns.

- (3) If the assessing authority is not satisfied without requiring the presence of proprietor who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such proprietor a notice in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such proprietor may rely in support of such returns.
- (4) On the day specified in the notice or as soon after-wards as may be, the assessing authority shall, after hearing the proprietor and considering such evidence as the proprietor may produce, and such other evidence as the assessing authority may require on specified points, assess the amount of luxury tax due from the proprietor.
- (5) If a proprietor, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (3), the assessing authority shall, within five years after the expiry of such period, proceed to assess to the best of his judgment the amount of the luxury tax due from the proprietor.
- (6) If a proprietor does not furnish returns in respect of any period by the specified date, the assessing authority shall within five years after the expiry of such period, after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of luxury tax, if any due from the proprietor.
- (7) If upon information which has come into his possession, the assessing authority is satisfied that any proprietor has been liable to pay luxury tax under this Act in respect of any period but has failed to apply for registration, the assessing authority shall, within five years after the expiry of such period after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax, if any, due from the proprietor in respect of such period and all subsequent periods and in cases where such proprietor has wilfully failed to apply for registration, the assessing authority may direct that the proprietor shall pay by way of penalty, in addition to the amount of luxury tax so assessed, an amount which shall not be less than ten per centum, but which shall not exceed one and a half times of the amount of luxury tax to which he is assessed.
- (8) The amount of any luxury tax, penalty or interest payable under this Act shall be paid by the proprietor in the manner prescribed by such date as may be specified in the notice issued by the assessing authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice.
- (9) If the luxury tax assessed under this Act is not paid by any proprietor within the time specified therefor in the notice of assessment, the assessing authority of the district concerned may, after giving such proprietor an opportunity of being heard, impose on him a penalty not exceeding in amount the sum due from him.
- (10) Any assessment made under this section shall be without prejudice to any penalty imposed under this Act."

Insertion of
sections
7-A & 7-B.

7. After section 7 of the principal Act, the following sections 7-A and 7-B shall be inserted, namely:—

“7-A. Re-assessment of luxury tax.—(1) If in consequence of any information which has come into his possession, the assessing authority discovers that the luxury tax payable by a proprietor has been under-assessed or has escaped assessment in any financial year or half financial year, as the case may be, the assessing authority may, at any time within five years following the close of such year for which luxury tax is proposed to be re-assessed and after giving the proprietor a reasonable opportunity in the prescribed manner of being heard, proceed to re-assess the luxury tax payable, which has been under-assessed or has escaped assessment.

(2) The assessing authority or any such authority as may be appointed by the Government, may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

7-B. Payment of interest.—(1) If any proprietor fails to pay the amount of luxury tax due from him under this Act, except to the extent mentioned in sub-section (2), he shall, in addition to the amount of luxury tax, be liable to pay simple interest on the amount of luxury tax due and payable by him, at the rate of one percentum per month from the date immediately following the last date on which the proprietor should have filed the return and paid the luxury tax under the Act for a period of one month, and thereafter at the rate of one and a half percentum per month till the default continues.

(2) If the amount of luxury tax or penalty due from a proprietor is not paid by him within the period specified in the notice issued under sub-section (8) of section 7 or, if no period is specified within thirty days from the service of such notice, the proprietor shall, in addition to the amount of luxury tax or penalty, be liable to pay simple interest on such amount, at the rate of one percentum per month from the date immediately following the date on which the period specified in the notice or the period of thirty days, as the case may be, expires, for a period of one month, and thereafter at the rate of one and a half percentum per month till the default continues:

Provided that where the recovery of any luxury tax or penalty is stayed by an order of any court, the amount of luxury tax or penalty shall, after the order of stay is vacated, be recoverable along with interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date the luxury tax or penalty first became due.

(3) The amount of interest payable under this section shall—

(i) be calculated by considering if part of a month is more than fifteen days as one month and any amount if more than fifty rupees but less than one hundred rupees as one hundred rupees ;

(ii) for the purposes of collection and recovery, be deemed to be luxury tax under this Act ; and

(iii) be in addition to the penalty, if any, imposed under this Act.”.

8. For section 9 of the principal Act, the following shall be substituted, namely:—

Substitution
of section 9.

- “9. *Revision.*—(1) The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.
- (2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.
- (3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”.

9. After section 13 of the principal Act, the following sections 13-A and 13-B shall be inserted, namely:—

Insertion of
sections 13-A
and 13-B.

- “13-A. *Proprietor to maintain accounts.*—(1) Every registered proprietor and other proprietor who may be required so to do, by the Commissioner or any person appointed to assist him under sub-section (1) of section 3, by notice served on him, shall keep a true account of the luxury provided by him in his hotel, and if the Commissioner or such other person considers that such accounts are not sufficiently clear or intelligible to enable him to make a proper check of the returns or the statement furnished, he may require such proprietor by notice in writing to keep such accounts including such records of luxury provided in his hotel, as he may consider necessary.
- (2) Every registered proprietor shall, issue to the customer or customers a bill or a cash memorandum serially numbered bearing the name and address of the proprietor, the date of issue and the signature of such proprietor or his servant, manager or agent and showing therein such other particulars of charges for the luxury provided in the hotel, and preserve a carbon copy of such bill or cash memorandum for a period of not less than five years from the date of issue thereof.
- (3) Where any proprietor contravenes the provisions of sub-section (1) or sub-section (2), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such proprietor a reasonable opportunity of being heard, impose upon him a penalty which may extend to five hundred rupees.

13-B. *Power to transfer proceedings.*—The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, by order in writing transfer any proceedings under any provisions of this Act, from any officer to any other officer subordinate to him :

Provided that nothing in this section shall be deemed to require any such opportunity to be given where the offices of both the aforesaid officers are situated in the same city, locality or place.

Explanation.—In this section, the word “proceedings” in relation to any proprietor whose name is specified in any order issued thereunder, means all or any proceedings under this Act in respect of any period which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any period in relation to such proprietor.”.

Amendment
of section 14.

10. For sub-section (2) of section 14 of the principal Act, the following shall be substituted, namely:—

“(2) The Officer not below the rank of the Excise and Taxation Officer, appointed under sub-section (2) of section 3, may, after affording to the person concerned a reasonable opportunity of being heard, impose penalty specified under sub-section (1).”.

Amendment
of section 17.

11. In section 17 of the principal Act, in sub-section (2),—

(a) the existing clause (a) shall be re-numbered as clause (aa) and before clause (aa) so re-numbered, the following clause (a) shall be inserted, namely:—

“(a) to prescribe the form, fee and the manner in which the registration certificate is to be issued under section 5-A;”;

(b) after clause (b), the following new clauses (bb) and (bbb) shall be inserted, namely:—

“(bb) the manner of payment of luxury tax, penalty or interest under sub-section (8) of section 7 ; and

(bbb) the manner in which the opportunity to be given to the proprietor under sub-section (1) and the conditions as may be prescribed under sub-section (2) of section 7-A.”.